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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,980	08/26/2003	Karl-Heinz Pitsch	NY-WELLA 204-US	3076
24972	7590	01/07/2008		
FULBRIGHT & JAWORSKI, LLP				
666 FIFTH AVE				
NEW YORK, NY 10103-3198				
EXAMINER				
DANNEMAN, PAUL				
ART UNIT		PAPER NUMBER		
3627				
MAIL DATE		DELIVERY MODE		
01/07/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/647,980

Applicant(s)

PITSCH, KARL-HEINZ

Examiner

PAUL DANNEMAN

Art Unit

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Status of Claims

1. This action is in response to the application filed on 26 August 2003.
2. Claims 1-51 have been examined.

Drawings

3. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because Fig.1 and Fig.2. have areas which just appear as black boxes, do not copy well and without the reference designator are totally meaningless. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. **Claims 1, 8, 12, 19, 27, 34, 38, and 45** are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein et al., US 5,163,010 henceforth known as Klein.

7. **Examiner's note:** Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the **entire** reference as potentially teaching all or part of the claimed invention, as well as the content of the passage as taught by the prior art or disclosed by the Examiner.

Claims 1, 8, 12, 19, 27, 34, 38, and 45:

With regard to the limitations:

- *A vending device for hair care or cosmetic products,*
- *Connected to a central computer to maintain inventory data, and handle transactions,*

Klein in at least Column 1, lines 7-11 discloses a device for formulating cosmetic product and dispensing a custom mix of the active chemicals in response to a customer's criteria at a Point-of-Sale. Klein in at least Column 2, lines 5-29 further discloses a means for entering the specific input criteria based on a customer's need and a computer outputting a series of instruction sets, dispensing a product (permanent waving solutions, shampoos, dyes, skin lotions, etc.) at a point

of sale. Klein in at least Column 6, lines 9-14 discloses the customer criteria are first characterized by the beauty parlor operator. Klein does not disclose inventory data per se, however Klein in at least Column 9, lines 62-67 and Column 10, lines 1-36 discloses the computer dispensing by weight the required formulation and still further in at least Column 11, lines 37-51 making a determination that a specified amount of product remains in inventory permitting a certain number of perms to be formulated and asking whether the tanks of solution should be refilled (Fig.6a), hence it would be obvious that the computer keeps a running total of each product dispensed. Therefore, it would be obvious, at the time of invention, to one of ordinary skill that Klein's device fully encompasses the limitations of a vending device for hair care or cosmetic products, connected to a computer at a point-of-sale for handling transactions.

Claims 3, 13, 17, 20, 24, 29, 39-40, 42-44, and 46:

With regard to the limitations:

- *Mixing formulations per input criteria (shade, hair condition, etc.),*
- *Dispensing formulations.*

Klein in at least Fig.6f, Column 12, lines 65-67 and Column 13, lines 1-2 discloses the display of the device indicating that a formulation is being dispensed and mixed and an indication when the dispensing and mixing is completed. Klein in at least Fig.7, Column 13, lines 40-42 discloses an optional sound circuit which may be utilized during the dispensing cycle and in lines 49-55 dispensing a specific weight of the solutions into a receptacle. Klein in at least Column 14, lines 32-39 still further discloses that the device has a dispensing means for automatically dispensing said plurality of cosmetically functional mixtures sequentially from their respective container in a formulation receptacle at the point-of-sale. Therefore, it would be obvious, at the time of the invention, to one of ordinary skill to conclude that Klein's anticipates the invention's mixing and dispensing of cosmetic formulations.

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8. **Claims 2, 4-7, 9-11, 14-16, 18, 21-23, 25, 26, 28, 30-33, 35-37, 41, and 47-51** rejected under 35 U.S.C. 103(a) as being unpatentable over Klein et al., US 5,163,010 henceforth known as Klein as applied to claims 1, 8, 12, 19, 27, 34, and 45 above, and further in view of Ushikubo, US 4,767,917.

Claims 2, 4-7, 9-11, 14-16, 18, 21-23, 25, 26, 28, 30-33, 35-37, 41, and 47-51:

With regard to the limitations:

- ***Sales to authorized personnel,***
- ***Processing a payment,***
- ***Printing a receipt.***

Klein does not specifically disclose restricting sales to authorized personnel per se, however in at least Column 6, lines 9-14 discloses the customer criteria are first characterized by the beauty parlor operator. Klein in at least Column 6, lines 39-46 further discloses a beauty parlor operator obtaining a much finer description of a client's hair at any one given time to provide more reproducible results from one permanent wave treatment to the next and still further discloses, in at least Column 9, lines 53-56 the stylist applying one of the dispensed products on the client's hair. Ushikubo, in at least Column 2, lines 45-63 discloses a vending machine wherein a sale is effected only when an authorized user using a registered which is validated. Therefore, it would be obvious, at the time of the invention, to one of ordinary skill to modify Klein with the security features of Ushikubo to insure that only properly authorized personnel dispensed hair chemicals for use on a client's hair.

Klein does not disclose processing a payment or printing a receipt, per se. However, Klein in at least Column 2, lines 5-8 discloses a point-of-sale and in at least Fig.1 and Column 2, lines 52-67 discloses a device representing a point-of-sale with an input means for formulating and dispensing a cosmetic formulation as requested. Klein in at least Fig.6e and Column 12, lines 26-34 discloses an automatic printout of a client code number at the point-of-sale. Ushikubo in at least Column 5, lines 22-51 discloses the conveyance of goods, the payment for those goods and the printing of a list of the goods that were sold. Therefore, it would be obvious, at the time of the

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invention, to one of ordinary skill to conclude that a point-of-sale with a printer by its nature is able to process payments and print receipts. Therefore, it would be obvious, at the time of the invention, to one of ordinary skill to modify Klein with the payment features of Ushikubo to insure that goods were properly paid for, the sale was properly recorded and a receipt was supplied.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL DANNEMAN whose telephone number is (571)270-1863. The examiner can normally be reached on Mon.-Thurs. 6AM-5PM Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul Danneman/

Examiner, Art Unit 3627

31 December 2007

/Michael Cuff/

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Primary Examiner, Art Unit 3627